

**AMENDMENT NO. 1  
TO  
AGC HEALTH BENEFIT TRUST FUND**

Oregon-Columbia Chapter, The Associated General Contractors of America, Inc. (“Trustor”) maintains the AGC Health Benefit Trust Fund (“Trust”), as amended and restated effective August 1, 2001. The Trust is hereby amended pursuant to Section 8.1 Amendment, as follows:

**1. Definitions, Incorporation of Terms by Reference**

Capitalized terms shall have the meaning set forth in the Trust, except where specifically modified by this Amendment No. 1 (“Amendment”).

**2. HIPAA Privacy and Security**

2.1 The following terms are added as new sections 1.14 through 1.23 as follows:

**1.14 Electronic Media.**

- Electronic storage media, including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; and
- Transmission media used to exchange information already in electronic storage media, including, for example, the Internet (wide-open), Extranet (using Internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and those transmissions that are physically moved from one location to another using removable/transportable electronic storage media, such as magnetic tape or disk, optical disk, or digital memory card.
- Paper, facsimile, and voice communications via telephone are not considered to be transmissions via Electronic Media, because the information being exchanged did not exist in electronic form before the transmission.

**1.15 Electronic Protected Health Information or Electronic PHI.** Protected Health Information that is:

- Transmitted by Electronic Media; or
- Maintained in any Electronic Media.

**1.16 HIPAA.** The Health Insurance Portability and Accountability Act of 1996, as amended, including all regulations promulgated pursuant thereto.

**1.17 HIPAA Benefits.** Group health benefits provided by the Trust.

**1.18 Insurer.** An insurance company, insurance service or insurance organization that is licensed to engage in the business of insurance in a state and is subject to state law that regulates insurance.

**1.19 Privacy Official.** The individual designated by the Trustees for the Plan under 45 C.F.R. § 164.530(a)(1).

**1.20 Privacy Rule.** That portion of HIPAA relating to administrative simplification set forth in sections 1171 through 1179 of the Social Security Act and the privacy regulations set forth in 45 C.F.R. part 160 and 45 C.F.R. part 164, subparts A and E.

**1.21 Protected Health Information or PHI.** Individually Identifiable Health Information that is:

- Transmitted by Electronic Media;
- Maintained in any Electronic Media, which means the mode of electronic transmission and includes the Internet (wide-open), Extranet (using Internet technology to link a business with information only accessible to collaborating parties), leased lines, dial-up lines, private networks, and those transmissions that are physically moved from one location to another using magnetic tape, disk or compact disk media; or
- Transmitted or maintained in any other form or medium.

**1.22 Security Incident.** The attempted or successful unauthorized access, use, disclosure, modification or destruction of information, or interference with systems operations in an information system.

**1.23 Summary Health Information.** Information that may be Individually Identifiable Health Information, and that summarizes a participant or covered dependent's claims history, claims expenses or type of claims, but does not contain any of the following information relating to the participant or dependent or to his or her relatives, employers, or household members:

- names, telephone numbers, fax numbers, and Social Security numbers;
- the days and months of all dates relating to the individual (including, for example, birth date, admission dates, discharge dates, and date of death), and the years of all such dates that indicate age over 89 (except that Summary Health Information may indicate aggregate data for "age 90 and older");
- addresses and geographic subdivision information, except that the Summary Health Information may include states and five-digit zip codes;

- electronic mail addresses, web universal resource locators (URLs), and internet protocol (IP) address numbers;
- medical record numbers, health plan beneficiary numbers, account numbers, certificate or license numbers, and vehicle identifiers and serial numbers including license plate numbers, device identifiers and serial numbers;
- biometric identifiers, including finger and voice prints, full-face photographic images and comparable images; and
- other unique identifying numbers, characteristics or codes, except as permitted in this Section for re-identification.

The Plan may assign a code or other means of record identification to de-identified information so long as the new code or other identifier is not derived from or related to information about the participant and covered dependent and cannot be translated in a way that would identify the participant or covered dependent, and the Plan does not disclose the code or other means of record identification for any purpose.

2.2 New sections 4.15 and 4.16 are added as follows:

#### **4.15 Privacy Requirements**

**a. General.** The Plan is subject to the HIPAA Privacy Rule. For purposes of this section 4.15, the term “Plan” refers only to that portion of the Trust that includes HIPAA Benefits. The Plan or an Insurer may disclose PHI to the Trustor or to the Trustees only to carry out Plan administrative functions performed by the Trustor and Trustees, in accordance with the terms of the Trust and the Privacy Rule, and only if participants and their dependents are informed of the availability of notice that the Plan may disclose PHI to the Trustees. The Plan may not disclose PHI to the Trustor, Employers or Trustees for purposes of employment-related actions or decisions or in connection with any other benefit plan.

**b. Trustor and Trustees Disclosure of PHI.** The Trustor and Trustees may use and disclose PHI as needed to help a obtain treatment, to facilitate payment of benefits under the Plan and for the purpose of Health Care Operations, in accordance with the Privacy Rule. In addition, the Trustor and Trustees may disclose PHI:

- i. To the individual who is the subject of the information;
- ii. To the Secretary of Health and Human Services for purposes of enforcement of the Privacy Rule;
- iii. In certain circumstances permitted under 45 C.F.R. § 164.512, which generally relate to public health, legal proceedings, research, or governmental functions, or as required by other laws;

- iv. To someone involved in the individual's care to the extent permitted under 45 C.F.R. § 164.510, provided the individual does not object;
- v. Pursuant to an authorization by a participant or covered dependent;
- vi. If it has been de-identified and is disclosed in accordance with 45 C.F.R. § 164.512(e); and
- vii. For purposes of underwriting pursuant to 45 C.F.R. § 164.514(g).

c. **PHI Disclosure Requirements.** The Plan or an Insurer shall disclose PHI to the Trustor or to the Trustees only upon receipt of a certification by the Trustees that the Plan is subject to the following provisions with respect to HIPAA Benefits provided by the Plan, and that the Trustor and the Trustees each agree:

- i. Not to use or disclose PHI other than as permitted by Section 4.15(b) or as required by law;
- ii. To ensure that any agents, including a subcontractor, to whom the Trustor or the Trustees provides PHI received from the Plan agree to the same restrictions and conditions that apply to the Trustor or the Trustees with respect to such PHI;
- iii. Not to use or disclose PHI for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the Trustor;
- iv. To report to the Plan any use or disclosure of PHI that is inconsistent with the permitted uses or disclosures provided, of which the Trustor or the Trustees become aware;
- v. To make PHI available to the individual to whom it pertains in accordance with the Privacy Rule's standards on access by participants to their own PHI;
- vi. To make PHI available to the individual to whom it pertains for amendment and to incorporate amendments in accordance with the Privacy Rule's standards on amendments of PHI;
- vii. To make available the information required to provide an accounting of disclosures in accordance with the Privacy Rule's standards on accounting of disclosures of PHI;
- viii. To make the Trustor's and the Trustees's internal practices, books, and records relating to the use and disclosure of PHI received from the Plan available to the Secretary of Health and Human Services for purposes of determining the Plan's compliance with the Privacy Rule;

ix. If feasible, to return or destroy all PHI received from the Plan that the Trustees still maintains and retain no copies when such information is no longer needed for the purpose for which disclosure was made or, to the extent return or destruction is not feasible, to limit further uses and disclosures to those purposes that make return or destruction not feasible; and

x. To ensure adequate separation between the Plan, the Trustor and the Trustees.

d. **Separation Between Plan and Trustees.** The adequate separation between the Plan and the Trustor and Trustees required under Section 4.15(c)(x) will be achieved as described in this subsection (d).

i. **Individuals with Access to PHI.** Only those individuals described in this Section shall have access to PHI that is received or maintained by the Plan. Employees of Trustor who have access to PHI include individuals who are employed in one of the following departments or functions, whose job description includes responsibilities that involve using or disclosing PHI, Health Care Operations of the Plan or payments under the Plan: the Trustor's Safety & Education Director and the Trustor's Member Services Manager. The Trustees of the Trust also are individuals with access to PHI.

ii. **Access to and Use of PHI.** Use of PHI and access to PHI by the employees and other persons described in Section 4.15(d)(i) are restricted to the Plan administrative functions that the Trustor and the Trustees perform for the Plan, including payment and Health Care Operations.

iii. **Resolving Non-Compliance.** In the event an employee or a Trustee has access to PHI and he or she uses or discloses PHI in a manner not permitted by the Plan, such error shall be brought to the attention of the employee or the Trustee and the Privacy Official for the Plan, and the employee or Trustee shall take such corrective action as may be requested by the Privacy Official in accordance with the terms of the Plan and the Privacy Rule.

iv. **Permitted Disclosures.** Notwithstanding Section 4.1(a) through (d), the Plan may disclose whether an individual is enrolled or disenrolled in the Plan or an Insurer offered under the Plan. Also, the Plan may disclose Summary Health Information to the Trustor and to the Trustees, if the Trustor or the Trustees requests the information for the purpose of:

- Obtaining bids from health plans for providing insurance coverage; or
- Amending or terminating the Plan.

**4.16 HIPAA Security**

**a. General.** For purpose of this Section, the term “Plan” refers only to that portion of the Trust that includes HIPAA Benefits. The Trustor and the Trustees shall reasonably and appropriately safeguard Electronic PHI created, received, maintained or transmitted to or by the Trustor or the Trustees on behalf of the Plan.

**b. Electronic PHI Security.** The Plan shall disclose Electronic PHI to the Trustor or the Trustees only upon receipt of a certification by the Trustees that the Plan is subject to the following provisions and that the Trustor and the Trustees agree:

**i.** To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI that the Trustor or the Trustees creates, receives, maintains, or transmits on behalf of the Plan;

**ii.** To ensure that adequate separation between the Plan and the Trustor and the Trustees required under Section 4.15(d) exists;

**iii.** To ensure that any agents, including subcontractors, to whom the Trustor or the Trustees provides Electronic PHI received from the Plan agree to implement reasonable and appropriate security measures to protect the Electronic PHI; and

**iv.** To report to the Plan any Security Incident concerning Electronic PHI of which the Trustor or the Trustees becomes aware.

**3. Effective Date**

This Amendment shall be effective May 1, 2016.

Except as provided herein, the Trust remains in full force and effect.

**Oregon-Columbia Chapter, The Associated  
General Contractors of America, Inc.**

By: Michael K. Salgiver

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Date: APRIL 28, 2016